

Issue: Compliance – Grievance Procedure (other issue); Ruling Date: November 22, 2016; Ruling No. 2017-4441; Agency: Virginia Department of Health; Outcome: Grievant Not in Compliance.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Employment Dispute Resolution

COMPLIANCE RULING

In the matter of the Virginia Department of Health
Ruling Number 2017-4441
November 22, 2016

The Virginia Department of Health (the “agency”) has requested a compliance ruling regarding the grievant’s October 19, 2016 dismissal grievance initiated with the Office of Employment Dispute Resolution (“EDR”) at the Department of Human Resource Management (“DHRM”).

FACTS

On or about October 19, 2016, the grievant initiated a dismissal grievance directly with EDR to challenge her separation from employment on September 22, 2016. Along with the Dismissal Grievance Form A, the grievant included an Expedited Form A apparently signed June 7, 2016 and challenging, among other allegations, a Group II Written Notice with suspension issued on May 16, 2016. The agency asserts that the June 7, 2016 grievance was concluded by the grievant on June 30, 2016 and requests a ruling from EDR determining that the issues contained within that grievance are not part of the matters to be addressed in a hearing regarding the October 19, 2016 dismissal grievance.

DISCUSSION

If a Grievance Form A does not comply with the requirements for initiating a grievance, the agency may notify the employee, using the Grievance Form A, that the grievance will be administratively closed.¹ Here, because dismissal grievances are initiated directly with EDR,² the agency is essentially unable to follow this process as outlined. Thus, the agency requests a ruling from this Office regarding the issue of alleged noncompliance.

The *Grievance Procedure Manual* states that a grievance may not “challeng[e] the same management action or omission challenged by another grievance.”³ In this instance, it appears that the Expedited Form A received with the dismissal grievance challenges an action previously grieved and concluded on June 30, 2016. Thus, the June 7, 2016 grievance is not proper subject matter for a hearing and shall not be considered as an issue subject to relief alongside the

¹ *Grievance Procedure Manual* § 2.4.

² *Id.* § 2.5.

³ *Id.* § 2.4.

October 19, 2016 dismissal grievance. However, this ruling does not foreclose the grievant's ability to raise, as background, any arguments or other evidence regarding issues set forth in the grievance dated June 7, 2016 to the extent they are relevant to claims raised in the dismissal grievance. Within five workdays of receipt of this ruling, the agency shall request the appointment of a hearing officer using the Grievance Form B.

EDR's rulings on matters of compliance are final and nonappealable.⁴



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⁴ See Va. Code §§ 2.2-1202.1(5); 2.2-3003(G).